



House Bill No. 6221

Public Act No. 17-165

AN ACT CONCERNING RECOVERY OF PAYMENTS FROM COLLATERAL SOURCES BY A MUNICIPALITY WITH A SELF-INSURED HEALTH PLAN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 7-464 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Any town, city or borough may, through its authorized officials, provide such form or forms of group life, health and accident and hospital plan benefits for its employees as it deems advisable. Any town, city or borough that provides health and accident and hospital plan benefits for its employees may arrange and procure the same benefits for each active member of a volunteer fire company or department or volunteer ambulance service or company within such town, city or borough, provided the member (1) elects coverage under such plan or plans, (2) pays one hundred per cent of the premium charged and any additional costs for such coverage, and (3) meets the requirements for active status set forth by said town, city or borough.

(b) If the town, city or borough has less than twenty employees, no health and accident and hospital plan for such employees may provide for reduced coverage for any employee who has reached the age of

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sixty-five and is eligible for Medicare benefits or any employee's spouse who has reached age sixty-five and is eligible for Medicare benefits except to the extent such coverage is provided by Medicare. If the town, city or borough has twenty or more employees, the terms of any such plan shall entitle any employee who has attained the age of sixty-five and any employee's spouse who has attained the age of sixty-five to group hospital, surgical or medical insurance coverage under the same conditions as any covered employee or spouse who is under the age of sixty-five.

(c) A self-insured town, city or borough that provides group health benefits for its employees has a lien on that part of a judgment or settlement that represents payment for economic loss for medical, hospital and prescription expenses incurred by its employees and their covered dependents and family members when such expenses result from the negligence or recklessness of a third party. The self-insured town, city or borough may recover such paid health benefits from any tortfeasor recovery but only upon the following terms and conditions:

(1) In no event shall any commercial insurance company which provides health insurance benefits to the employees of a town, city or borough and their covered dependents and family members, including, but not limited to, stop loss insurance beyond a municipal self-funded medical expense amount, be entitled to any reimbursement from a tortfeasor recovery. The provisions of this subsection shall be construed to only permit a self-insured town, city or borough to recover medical expenses paid from its own revenues. The provisions of this subsection shall not be construed to permit a self-insured town, city or borough to recover medical expenses paid from an insured plan, whether insured in whole or in part.

(2) No lien shall exist against any tortfeasor recovery when the self-insured town, city or borough paid an amount equal to or less than fifteen thousand dollars for medical, hospital and prescription

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expenses incurred by its employee, covered dependent or family member.

(3) Any lien permitted under this subsection shall be limited to that portion of any settlement or judgment that represents payment for economic loss for medical, hospital and prescription expenses paid as of the time of settlement or judgment, and reduced as set forth in subdivision (4) of this subsection.

(4) The lien shall be reduced by:

(A) Any percentage of comparative negligence attributed to the employee under section 52-572h;

(B) The percentage ratio that the employee's legal fees and costs bear to the total judgment or settlement recovered; and

(C) Application of equitable defenses to the lien amount claimed including, but not limited to, the make whole doctrine and unjust enrichment. If agreement cannot be reached on the application of equitable defenses to the claimed lien amount, then either the employee, covered dependent, family member or the self-insured town, city or borough may petition the Superior Court for resolution on the application of equitable defenses. Any such petition to the Superior Court shall be heard by a judge of the Superior Court and shall be privileged for a hearing assignment and any such hearing shall be held not later than thirty days after the date of filing the application.

(5) The lien shall be effective when written notice of the lien is provided to the employee or his or her attorney but only if written notice of the lien is provided prior to any settlement or the entry of judgment. Written notice shall be deemed effective if the group health plan coverage booklet provided to the employee, covered dependent or family member contains clear language in conspicuous bold face font that the employee, covered dependent or family member shall

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reimburse the self-insured town, city or borough from any tortfeasor recovery for medical, hospital and prescription expenses paid due to the negligence of a third party as limited by the provisions of this subsection.

(6) Upon written request from the employee, covered dependent family member or such individual's attorney after settlement or the entry of judgment, the self-insured town, city or borough shall have thirty days to provide the employee or his or her attorney with the total amount of the lien claimed. If the total amount claimed is not provided by the self-insured town, city or borough within such thirty-day period, then the self-insured town, city or borough shall be deemed to have waived any lien and shall have no further claim of lien for medical, hospital and prescription expenses paid from the tortfeasor recovery.

(d) As used in subsection (c) of this section: (1) "Self-insured town, city or borough" means a town, city or borough that provides group health benefits to its employees by paying submitted medical, hospital and prescription expense claims from its revenues; and (2) "tortfeasor recovery" means moneys paid by or on behalf of the person or entity whose negligence or recklessness caused the injuries for which medical, hospital and prescription expenses were incurred. "Tortfeasor recovery" includes claims in negligence or recklessness based upon wrongful death under section 52-555 and claims based upon negligent operation of a motor vehicle owned by the state under section 52-556. "Tortfeasor recovery" does not include any recovery based upon liability for any torts other than negligence or recklessness, including, but not limited to, causes of action based upon any provision of the general statutes, intentional misconduct, and uninsured or underinsured motorist claims.

Approved July 7, 2017